

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KATHERINE HONOR RICH,

Plaintiff,

v.

OFFICE OF BIOMETRIC IDENTITY
MANAGEMENT.

DEPARTMENT OF HOMELAND
SECURITY.

Defendants.

No.

**COMPLAINT UNDER THE
FREEDOM OF INFORMATION
ACT**

I. INTRODUCTION

1. This is an action under the Freedom of Information Act ("FOIA") to compel the Office of Biometric Identity Management ("OBIM") within the Department of Homeland Security ("DHS") to respond to a December 26, 2019 request for records to which it has unlawfully failed to timely respond as mandated by FOIA.

COMPLAINT UNDER FOIA – 1

Rich Immigration PC
1207 N 200 St Suite 214B
Shoreline, WA 98133
(206)853-4073

II. JURISDICTION AND VENUE

2. The Western District of Washington has jurisdiction over this pursuant to 5 U.S.C. § 552(a)(4)(B).
3. Venue is proper under 5 U.S.C. § 552(a)(4)(B) and because a substantial portion of the events occurred in the District.
4. The Plaintiff is deemed to have exhausted her administrative remedies as the Defendant failed to timely respond to the FOIA requests. 5 U.S.C. § 552(a)(6)(C)(i).

III. PLAINTIFF

5. Katherine Honor Rich is an attorney licensed to practice law in the State of Washington.
6. Ms. Rich's practice focuses on matters of United States immigration law.
7. Ms. Rich resides in Shoreline, Washington.
8. Ms. Rich was the requestor the FOIA request at issue in the case at bar.

IV. DEFENDANT

9. The Office of Biometric Identity Management is an agency within the Department of Homeland Security.
10. Upon information and belief, OBIM has within its possession the records requested in Plaintiff's FOIA request.

V. FACTUAL ALLEGATIONS

11. On December 26, 2019, Ms. Rich lodged a FOIA request with OBIM (hereinafter "FOIA Request"). OBIM assigned this request control number 2020-OBFO-17822.

1 12. Ms. Rich filed the above FOIA request in the course of representing an immigration
2 client, "L.J.R.L."

3 13. Ms. Rich's FOIA Request sought a copy of her client's records, specifically records of
4 an arrest by CBP where L.J.R.L. was fingerprinted.

5 14. Ms. Rich filed the FOIA Request because she determined that obtaining L.J.R.L.'s
6 apprehension records was necessary to provide competent legal representation.

7 15. Defendant is required to respond to a FOIA request within 20 business days. 5 U.S.C.
8 § 552(a)(6)(A)(i).

9 16. The 20-day response deadline may be extended by no more than 10 business days in
10 the event that the agency notifies the requester in writing of the existence of "unusual
11 circumstances." 5 U.S.C. § 522(a)(6)(B)(i).

12 17. More than a year has elapsed since the FOIA Request was filed.

13 18. To date, Defendant has failed to respond to the FOIA Request, save for its receipt
14 letter.

15 19. Defendant has not notified the requester in writing that "unusual circumstances"
16 warrant an extension of its response period in regard to the FOIA Request.

17 20. As of January 12, 2021, Defendant's online "FOIA/PA Status Check" utility indicated
18 that Ms. Rich's FOIA request "Estimated Delivery Date" for the request is July 23,
19 2020 [sic].

20 21. As a result of Defendant's unlawful delay Plaintiff has been prejudiced in her ability
21 to provide legal representation to her client.

22. As a result of Defendant's unlawful delay Plaintiff has incurred damages, including lost time and income.

VI. CLAIM FOR RELIEF

Violation of FOIA.

23. Plaintiff re-alleges and incorporates all paragraphs above as though fully stated herein.

24. Plaintiff re-alleges and incorporates all paragraphs above as though fully stated herein.

25. Defendant is obligated under 5 U.S.C. § 552(a)(3) to conduct a reasonable search for records responsive to FOIA requests and to make a determination concerning each request within the time period set forth in 5 U.S.C. § 552(a)(6)—20 business days, to be extended by no more than 10 business days in the event that the agency notifies the requester in writing of the existence of "unusual circumstances." 5 U.S.C. § 522(a)(6)(B)(i).

26. Defendant failed to make its determination concerning Plaintiff's FOIA request within the time allotted by the FOIA statute.

27. Defendant has no legal basis for its failure to timely respond to Plaintiff's FOIA request.

VII. REQUEST FOR RELIEF

Plaintiff requests the following relief from the Court:

A. Judgment in its favor and against Defendants;

B. An order enjoining Defendant from further delay in its response to Plaintiff's FOIA request;

- 1 C. An order compelling Defendant to respond to Plaintiff's FOIA request within 5
2 business days of judgment in this matter;
- 3 D. An award of reasonable attorney per 5 U.S.C. § 552(a)(4)(E)(i);
- 4 E. An award of reasonable litigation costs per 5 U.S.C. § 552(a)(4)(E)(i). and
- 5 F. Grant such further relief as the Court deems just and proper.

6 Respectfully submitted this 13th day of January 2021,

7
8 By: s/Katherine Honor Rich

Rich Immigration P.C.

SBA (Washington State) #46881

1207 N. 200th St., Suite 214B

Shoreline, WA 98133

10 Telephone: (206) 853-4073

11 Email: katherine@richimmigration.com